DOCUMENT RESUME

ED 313 460 UD 027 015

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TITLE	The Official English Movement in New York and in the Nation.
INSTITUTION	New York City Dept. of City Planning, N.Y.
PUB DATE	27 Jun 89
NOTE	23p.
PUB TYPE	Legal/Legislative/Regulatory Materials (090) -- Reports - Research/Technical (143)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	Bilingualism; *Civil Rights; *Cultural Pluralism; English (Second Language); *Ethnic Discrimination; Federal Regulation; Government Role; Immigrants; Language Proficiency; Public Policy; *State Legislation
IDENTIFIERS	*English Only Movement; Legislative History; *New York; State Role

ABSTRACT

"English Only" and "Official English" are two terms that are used to describe the movement to declare English the official language of the United States. Sixteen states have laws declaring English their official language; 14 of these laws have been passed since 1981. This report decribes the effect of the movement in New York State (which does not have such laws) and nationally. The report includes an executive summary and six sections. Section 1, "A History of the Official English Movement," describes the evolution of "U.S. English" and other organizations to promote official language initiatives. Section 2, "State Summary," provides chronological and legislative data on states' Official English laws. Section 3, "New York State," records the opposition of Governor Mario Cuomo and New York City Mayor Edward Koch to Official English, and describes county and state attempts to legislate the language restriction. Section 4, "Federal Activity," examines six Official English bills introduced in the U.S. House and Senate. Section 5, "English Plus," describes the counterposition to English Only and Official English, proposed federal legislation on its behalf, and adopted state and local policies supporting it; national groups working for English Plus are also listed. Section 6, "The Official English Principle in Practice," cites examples of literal and illegal interpretations of English Only laws, indicating the need for additional legal and legislative explication. (AF)

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THE OFFICIAL ENGLISH MOVEMENT IN NEW YORK AND IN THE NATION

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June 27, 1989

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EXECUTIVE SUMMARY

Sixteen of the United States have laws declaring English their official language, 14 of which were passed since 1981. An organization known as U.S. English is lobbying for a similar amendment to the United States Constitution. To amend the United States Constitution, approval is needed from the legislatures of at least 38 states, so the number of states that already have "Official English" laws can be an indicator of the progress of a proposed federal amendment.

"English Only" and "Official English" are two terms that are used to describe the movement to declare English the official language of the United States. "English Only" indicates that English in the only language to be used in official government transactions. "Official English" indicates that English is the official (but not necessarily only) language of official government transactions. Most existing and proposed legislation relating to language policy falls under the "Official English" category. Important facts about the official English movement are:

°Most of the state Official English laws essentially say nothing more than "English is the official language of this state."

°Federal laws mandating bilingual voting materials and bilingual education preempt any state's effort to exclude languages other than English from its official functions.

°Official English legislation was proposed in 22 states in 1988. Voters approved the legislation in three states--Arizona, Colorado and Florida. In 1989, 12 states were considering Official English legislation as of June.

°Official English legislation has been proposed in both houses of the New York State legislature but has never made it out of committee.

°Governor Mario Cuomo has publicly declared his opposition to Official

English and has said he would oppose any effort to make English the official language of New York. Amending the New York State Constitution, however, does not require approval from the Governor. Therefore, English could be declared the official language of New York via a constitutional amendment.

°New York City Mayor Edward I. Koch also has gone on record as being opposed to Official English.

°Three versions of a Constitutional English Language Amendment were proposed in Congress in 1988. All bills died in committee. In 1989, four bills were under consideration as of June.

°"English Plus" describes a movement that has grown up in opposition to English Only and Official English. English Plus proponents favor proficiency in English, accompanied by proficiency in native and foreign languages, for English and non-English speakers alike. Four states (Hawaii, New Mexico, Louisiana and Washington) have language policies promoting multi- or bilingualism.

°The New York City Council is currently considering a resolution that would declare New York a multilingual, multicultural city.

A HISTORY OF THE OFFICIAL ENGLISH ISSUE

Official English issues have been debated at various points in American history. English Only sentiments first became apparent in the United States during the wave of immigration from Europe that occurred in the 1870s. In the period 1890-1914, renewed immigration and anti-German sentiment led to English Only movements in several states including Nebraska (1919) and Ohio (1923). Laws were passed prohibiting schools from teaching languages other that English before the ninth grade in Nebraska, and before the eighth grade in Ohio. These laws were struck down by the Supreme Court in 1923 in the case Meyer v. Nebraska.

The English Only movement resurfaced in the 1980s when Official English legislation was introduced in the U.S. Congress by then-Senator S.I. Hayakawa (R-CA), a semanticist and former president of San Francisco State University. The legislation died in committee.

U.S. English, the principal organization working for Official English legislation in the United States, was founded in 1983 by Sen. Hayakawa and John Tanton. Tanton, a Michigan ophthalmologist, once served as president of Zero Population Growth and is the founder of the Federation for American Immigration Reform (FAIR). U.S. English is part of a larger community of organizations concerned with immigration reform and language restriction including FAIR, the Center for Immigration Studies, the Immigration Political Action Committee and the English Language Political Action Committee.

U.S. English lists its main goals as:

°Adoption of a Constitutional Amendment to establish English as the official language of the United States.

°Repeal of laws mandating multilingual ballots and voting materials.

°Restriction of government funding for bilingual education to short-term

transitional programs only.

°Universal enforcement of the English language and civics requirement for naturalization.

°Expansion of opportunities for learning English.

In general, state and local Official English campaigns are conducted by representatives of U.S. English, which has its main office in Washington, DC. Unlike English Plus, which is largely a grass-roots movement, the Official English movement is centralized under U.S. English and another organization, English First (see next page).

In recent years, U.S. English has been troubled by public controversy and internal strife. During the 1988 Official English campaigns in Arizona, Colorado, and Florida, a freelance journalist, James Crawford, made public a 1986 memo written by Tanton. The seven-page memo was written to guide discussions at a conference on the impact of increased immigration to California and the rest of the United States. In the memo, Tanton discussed what he saw as potentially harmful consequences of increased immigration in the areas of political power, national educational level, and race/class relations. Raising his concerns about high fertility rates among Latin immigrants throughout the memo, Tanton suggested that "perhaps this is the first instance in which those with their pants up are going to get caught by those with their pants down!"

Linda Chavez, a former staff director of the U.S. Civil Rights Commission (under President Reagan) who had been executive director of U.S. English since 1987, resigned in protest, calling the memo "repugnant" and "anti-Hispanic." Tanton resigned hours after Chavez, saying that he did not wish the furor over his memo to hurt the progress of the official language initiatives in Arizona, Colorado, and Florida. Board of Advisors member Walter Cronkite also resigned.

The current acting president and executive director of U.S. English

is Kathryn Bricker, a U.S. English staff member since 1983. She is from Petoskey, Michigan, the home of John Tanton. Stanley Diamond, a former special assistant to Sen. Hayakawa, is acting chairman. The advisory board of U.S. English includes such prominent people as Walter Annenberg, Alistair Cooke, and Arnold Schwarzenegger.

The other principal organization working for Official English legislation is English First, a Springfield, Virginia, group headed by former Virginia state legislator Larry Pratt (R-Fairfax County, 1980-81) . English First is primarily a direct-mail fundraising organization. Mr. Pratt is a registered Washington lobbyist who also operates direct-mail fundraising campaigns for two conservative political action committees, Gun Owners Incorporated and U.S. Border Control.

STATES SUMMARY

Most of the states' Official English laws amount to little more than simple declarations of an official state language, much like declarations of a state flower or bird. Furthermore, as state laws may not preempt federal laws, the force of the state laws is significantly restricted. Declaring English the official language of "the ballot and the public schools," for example, can have little impact when federal laws mandate bilingual voting materials and bilingual education programs.

Three states--Arizona, Colorado and Florida--enacted their Official English measures into law in 1988, bringing the total number of Official English states to 16 (see next page for list of states with years of passage). As approval of 38 states would be needed to ratify an English Language Amendment (ELA) to the United States Constitution, proponents and opponents watch the tally closely. It is important to keep in mind, however, that the legislature of a state with an Official English law would not necessarily ratify a federal ELA.

Six states have laws that say nothing more than "English is the official language of this state." These states are Georgia, Illinois, Indiana, Kentucky, Mississippi, and North Dakota.

Colorado's and Florida's laws declare English the official language of their states and add statements empowering their legislatures to enforce the article by legislation.

Not everyone in Colorado, however, is satisfied with the law, for example, Governor Roy Romer and Denver Mayor Federico Pena. Governor Romer ordered that interpreters were still to be made available to people filling out State forms, such as driver's license applications. Mayor Pena issued an executive order telling City workers to take no action to enforce the new law.

ENGLISH LANGUAGE LAWS BY STATE AND YEAR OF PASSAGE
(As of June 1989)

State	Year	Law
Nebraska	1923	State Constitution, Article I, Section 27
Illinois	1969	Smith-Hurd Illinois Annotated Statute, Chapter 1, Section 3005
Virginia	1981	Code of Virginia, Section 22.1-212.1
Indiana	1984	Burns Indiana Statutes Annotated, Section 1-2-10-1
Kentucky	1984	Kentucky Revised Statutes, Section 2.013
Tennessee	1984	Tennessee Code Annotated, Section 4-1-404
California	1986	State Constitution, Article III, Section 6
Georgia	1986	Georgia Laws 1986 Session, Law Number 70
Arkansas	1987	Arkansas Code Annotated, Section 1-4-117
Mississippi	1987	Mississippi Code Annotated, Section 3-3-31
North Carolina	1987	General Statutes of North Carolina, Section 145-12
North Dakota	1987	North Dakota Century Code, 54-02-13
South Carolina	1987	Code of Laws of South Carolina Annotated, Section 2-2-696
Arizona	1988	State Constitution, Article XXVIII
Colorado	1988	State Constitution, Article II, Section 30
Florida	1988	State Constitution, Article II, Section 9

Similarly, in Florida, Governor Bob Martinez issued an executive order stating that although records, reports, and proceedings of state and local governments are required to be in English, there are to be no restrictions on the use of other languages in the workplace.

Seven states have laws that declare English the official language of the state and add qualifying statements prohibiting and/or permitting the use of languages other than English under specified circumstances. These states are Arizona, California, North Carolina, Nebraska, Arkansas, Tennessee, South Carolina, and Virginia. State by state, the laws are as follows:

Arizona's law is the most detailed of all 16 state laws, although it is uncertain that it has any greater practical force. It declares English the official language of "the ballot, the public schools and all government functions and actions," and says that the State and all political subdivisions "shall take all reasonable steps to preserve, protect and enhance the English language." The use or requirement of languages other than English is, however, allowed for the following purposes:

- to provide transitional English proficiency classes, to the extent required by federal laws
- to ensure compliance with federal laws
- to protect public health or safety
- to protect the rights of criminal defendants or victims of crime

Residents of or businesspeople in Arizona have standing to bring suit to enforce this law.

California's law states its intent to "preserve, protect, and strengthen the English language." Any resident has standing to sue the State to enforce this law, and enforcement of the law (by additional legislation) is the duty of the state legislature.

North Carolina's law, like California's law, is intended to "preserve,

protect and strengthen the English language." Nevertheless, it specifically prohibits the Division of Motor Vehicles from discontinuing driver's license examinations in languages already used by the DMV.

Nebraska's law declares that "all official proceedings, records and publications shall be in (English), and the common school branches shall be taught in (English) in public, private, denominational and parochial schools."

Arkansas' law says that its declaration of English as the official language of the state "shall not prohibit the public schools from performing their duty to provide equal educational opportunities to all children."

Tennessee's law mandates that "all communications and publications, including ballots, produced by governmental entities in Tennessee shall be in English, and instruction in public schools and colleges of Tennessee shall be conducted in English unless the nature of the course would require otherwise."

In South Carolina, no political subdivision of the state is allowed to require the use of any language other than English except when it is a necessary qualification for a state job title. The law specifically permits English proficiency classes or classes to make students proficient in language in addition to English.

Virginia's law says that its school boards will be obligated to use languages other than English only in foreign language classes. In addition, school boards are to "endeavor to provide instruction in the English language which shall be designed to promote the education of students for whom English is a second language."

In the spring of 1989, Official English measures were proposed in 12 additional states: Alabama, Connecticut, Kansas, Maryland, Missouri, New Hampshire, New Jersey, New York, Pennsylvania, Utah, West Virginia, and Wisconsin. By the end of June, the New Hampshire, Maryland, and Utah

bills were killed in committee.

States that allow voter-initiated referenda are generally seen as more likely to pass Official English legislation than are the states in which bills must be proposed and approved in the legislature. Of the 17 states that allow voter-initiated referenda, eight (or nearly half) have Official English laws. Of the 33 that do not allow voter-initiated referenda, eight (or approximately one quarter) have Official English laws. States in the former category are Massachusetts, Michigan, Missouri, Montana, Nevada, Ohio, Oklahoma, Oregon and South Dakota. Of these states, only Missouri is currently considering Official English legislation.

NEW YORK STATE

In a 1987 speech before a prominent Latino advocacy organization, Governor Mario Cuomo announced that he was opposed to Official English, calling it "repugnant as a national concept and repugnant as a proposal for New York State." New York City Mayor Edward I. Koch also opposes Official English.

Despite Governor Cuomo's opposition, Official English legislation has been introduced in the New York State legislature in the 1987, 1988, and 1989 sessions. During the 1988 session, State Senator John Marchi (R-Staten Island) and then-Assemblyman L. William Paxon (R-C, East Aurora) introduced concurrent resolutions in the Senate and Assembly proposing a constitutional amendment designating English the official language of New York State. Passage of laws putting the amendment into effect would be the responsibility of the legislature. The use of languages other than English would be permitted where necessary to "provide supplemental instructional programs for pupils of limited English proficiency, directions or other informational devices." Mastery of languages in addition to English would be encouraged for all students. Finally, any resident of New York would have the standing to sue the state to enforce this resolution. Only two states with Official English laws--Arizona and California--give their residents this power.

The Senate bill was referred to the Judiciary Committee, whose chairman is John Dunne (R-Nassau County) and the Assembly bill was referred to the Education Committee, whose chairman is Jose Serrano (D-Bronx). Both bills died in committee.

In the 1989 session, Sen. Marchi reintroduced his Official English bill (S2514). It was referred to the Judiciary Committee. Mr. Paxon is no longer a member of the Assembly; his successor, Tom Reynolds (R-C, East Aurora), reintroduced the bill (A3748). A third bill, A2898, also introduced by Mr. Reynolds, would amend the state law to declare English

the official language of New York. Mr. Reynolds' bills were referred to the Education Committee.

One New York county legislature proposed a highly restrictive Official English resolution, only to defeat it after a lengthy and heated debate. More restrictive than even the Arizona law, the Suffolk County resolution would have prohibited the use of any language other than English in the official business of the County, whether spoken or written. In one unique clause, the County eliminated competence in other languages as a condition of employment for any County employees. The resolution also contained a clause that would have prohibited the use of County funds for investigating practices or allegations of discrimination based on the required use of English in official County business.

As with all existing Official English laws, however, the long list of exemptions would have minimized the types of circumstances in which English could be the only language of use. The use of languages other than English would have been permitted where necessary for the provision of health and safety services, for example, and to comply with federal and state laws. Bilingual or multilingual employees would have been allowed to use their second languages to deliver services to the public as long as the services were rendered to non-English speaking persons. In April 1989, after months of debate and revision, the County Legislature defeated the proposed resolution by an 11 to 7 vote.

FEDERAL ACTIVITY

In 1988, six Official English bills were introduced in the House or the Senate. They were all versions of a Constitutional English Language Amendment (ELA). One version would declare English the official language of the United States and would leave the interpretation and enforcement of the article to Congress and the courts. Bills falling under this category were introduced by Sen. Steve Symms (R-ID), Rep. Clarence Miller (R-OH), and Rep. Norm Shumway (R-CA).

Another version of the ELA would prohibit the United States as well as any state from requiring the use of any language other than English except where necessary to help limited- or non-English speakers to learn English. Interpretation and enforcement of this article would be left to Congress and the states. Bills falling under this category were introduced by Rep. William Broomfield (R-MI) and Rep. Virginia Smith (R-NE).

In the same session, Mr. Shumway introduced another version of the ELA. This version would declare English the official language of the United States. Requiring the use of languages other than English would be prohibited, with four exceptions: English as a Second Language (ESL) classes, foreign language classes, health and safety matters, and translators for litigants, defendants, or witnesses in court cases. Power of enforcement of this article would be given to Congress and the States.

None of these bills got out of the Judiciary Committee because of strong opposition from Constitution Subcommittee Chairman Paul Simon (D-IL) and House Civil and Constitutional Rights Subcommittee Chairman Don Edwards (D-CA).

Finally, Mr. Shumway introduced a non-binding "sense of the Congress" resolution declaring English the official language of the United States. This resolution was sent to the House Education and Labor Committee, where it died.

In the 101st Congress, four Official English bills were introduced as of June 1989. The Symms/Miller/Shumway version was reintroduced (H.J. Res 48) by Rep. Bill Emerson (R-MO) and by Mr. Miller (H.J. Res 79). The Broomfield/Smith version has been reintroduced (H.J. Res 23) by Mrs. Smith. Mr. Shumway has reintroduced his "four exceptions" bill (H.J.Res 81). The bills were referred to the House Judiciary Committee.

ENGLISH PLUS

The counterposition to English Only and Official English is known as "English Plus." The term English Plus was first used in reaction to a September 1985 speech given by then-Education Secretary William Bennett in which he asserted that the educational sector had "lost sight of the goal of learning English as the key to equal educational opportunity." The Spanish American League Against Discrimination (SALAD) later responded, "we fear that Secretary Bennett has lost sight of the fact that English is a key to equal opportunity...English by itself is not enough." SALAD declared, "not English only, English plus!" The term has come to describe a number of positions including that:

- students benefit more from ESL classes combined with native-language classes in other subjects than they do from English-only immersion classes in all subjects

- to facilitate a better political and economic position for the United States in the international community, learning a multiplicity of languages, including English, is desirable

- cultural diversity and pluralism should be promoted

- more funds should be made available for ESL classes for adults.

English Plus supporters argue that most non-English speakers will learn to speak English if given the opportunity. Although a stated aim of Official English proponents is to offer everyone the opportunity to learn English, there are no provisions in any Official English law to further this aim.

Like Official English, the English Plus concept has manifested itself in proposed legislation at the federal level. In the 100th Congress, a Cultural Rights Amendment (House Joint Resolution 232 and Senate Joint Resolution 114) was introduced by Rep. James A. Hayes (D-LA) and Sen.

John B. Breaux (D-LA). The Amendment asserts "the right of people to preserve, foster, and promote their respective historic, linguistic, and cultural origins," and declares that "no person shall be denied the equal protection of the laws because of culture or language." Power of enforcement by appropriate legislation would be given to Congress. No action was taken on the bill in 1988. Mr. Breaux reintroduced the bill (Senate Joint Resolution 97) in the 101st Congress. Mr. Hayes, however, did not reintroduce the bill in the House. Mr. Breaux's bill was referred to the Judiciary Committee.

Another "alternative" bill (Senate Joint Resolution 379) was introduced by Sen. Daniel Inouye (D-HI). The bill supported the preservation of native American languages, namely those of American Indians, Native Alaskans, Native Hawaiians, and Native American Pacific Islanders. These groups would be granted the right to use their languages as the medium of instruction in state and federal educational institutions. In addition, the bill would encourage the inclusion of native American languages in the foreign language curricula of elementary through post-secondary educational institutions. Students would receive foreign language credit for studying these languages. The bill passed the Senate by voice vote but was not considered in the House.

Three states had alternative language policies even before the term English Plus came into being. Hawaii has a constitutional amendment that declares Hawaiian and English the state's official languages. Louisiana's statute upholds the preservation and promotion of minority languages and cultures. New Mexico's constitution authorizes the training of Spanish-speaking teachers and requires all official documents in both English and Spanish for 20 years from their dates of passage.

Just recently, two states have adopted English Plus policies. In March 1989, the New Mexico State Legislature approved a resolution affirming its support of the English Plus concept. In May 1989, Washington Governor Booth Gardner signed into law a bill declaring that "it shall be Washington State policy to welcome and encourage the presence of diverse cultures

and the use of diverse languages in business, government, and private affairs." Oregon and Pennsylvania are also considering English Plus legislation this year.

A number of cities and counties have passed resolutions in support of multilingualism and multiculturalism. These include Atlanta, Georgia; Cleveland, Ohio; Dallas, Texas; Washington, DC; Osceola County, Florida; Pima County, Arizona; San Antonio, Texas; and Tucson, Arizona.

In New York City, Council Member Jose Rivera introduced Resolution No. 1474 in October 1988, "denouncing" the English Only movement and declaring New York City a multilingual, multicultural city. Mr. Rivera had introduced a similar bill at the State level in 1987, when he was an Assemblyman. No action was taken on the City resolution in 1988. It has been reintroduced in the 1989 session as Resolution No. 1474, and Councilman Rivera's office is working with Samuel Horwitz, chair of the General Welfare Committee, to schedule a public hearing.

In December 1988, New York State Assemblyman Jose Serrano and Assembly Speaker Mel Miller joined Governor Cuomo in saying that they would oppose any effort to declare English the official language of New York or of the United States.

At the non-governmental level, some of the national groups working for English Plus are the National Immigration, Refugee & Citizenship Forum, the Mexican American Legal Defense and Educational Fund, the Joint National Committee for Languages, and the American Jewish Committee. In New York, English Plus proponents include the New York Association for New Americans, Committee for a Multilingual New York, the Caribbean Education and Legal Defense Fund, and the Haitian American Anti-Defamation League.

THE OFFICIAL ENGLISH PRINCIPLE IN PRACTICE

Because most existing official language laws are very general, and because further explications of the laws through court cases or additional legislation have not been made, individuals and local entities have formulated their own interpretations of the laws. These interpretations have sometimes been remarkably strict or even illegal. Examples of this are:

°In October 1987, the Monterey Park (California) City Council disbanded the board of commissioners of the Monterey Park Library and took over the administration of the library. The City Council then greatly reduced the library's budget for foreign language materials. In November 1988, the California Superior Court ordered the reinstatement of the board, but, pending appeal of the Superior Court decision, the City Council remains in control.

°In Miami, the day after Florida's Official English law went into effect, a supermarket cashier was suspended for 10 days without pay for asking a co-worker, "Donde esta Jorge?" (Where is Jorge?) The manager cited the new law as grounds for the suspension.

°In Grand Junction, Colorado, two days after the Official English law went into effect, a school bus driver told the children on his bus that they were no longer allowed to speak Spanish there.

°In 1984, two years before California's Official English law was passed, the Huntington Park Municipal Court instituted a rule saying that its employees could speak only English, in work-related or non-work-related conversations, unless they were providing interpreter services to the public. Two years after the law was passed, this rule was struck down by the U.S. 9th Circuit Court of Appeals. The Court found that this English Only rule was in violation of federal civil rights law and was not justified even by the state's "primarily symbolic" new Official English law. Former Sen. Hayakawa,

a leader of the Official English campaign in California, disagreed with the ruling, asserting that one employee asking another "Where shall we go for lunch?" in Spanish would be a violation of the Official English law.

°In Arizona, where the Official English law is very specific, there has been uncertainty about its implications. The Arizona Board of Pardons and Paroles postponed the December 1988 hearings of two non-English-speaking inmates, saying that they were unsure whether or not providing interpreters for them was allowed under the new law. The State Attorney General's office advised the Board to request interpreters from the counties.

Uncertainty over implications has occurred also in Dade County, Florida, where the nation's most restrictive Official English ordinance is in effect. This ordinance, which declares English the official language of Dade County and prohibits the use of County funds to promote "any culture other than that of the United States," was passed shortly after the 1980 Mariel Boatlift from Cuba. It originally was interpreted to prevent the use of County funds for printing bilingual fire prevention literature or bilingual prenatal care literature. Bilingual literature already printed was not allowed to be distributed. In addition, English was to be the only language of County public hearings, meetings, and publications.

In 1984, the ordinance was amended so that exceptions were made for health and safety (for example, services to the elderly, and police, fire, and ambulance services) and for the promotion of "worldwide tourism." The ordinance applies only to the County, that is, only to functions that are paid for and administered by the County, and not to lower jurisdictions in the county, nor to the schools, nor to the private sector.